IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.1386 OF 2004
IN
EXECUTION APPLICATION NO.192 OF 2004
IN
PANVEL SUMMARY SUIT NO.3 OF 2003

Suresh Shivram Dave ....Plaintiff

V/s.

Vinod S. Kakkad ....Defendant

And

Shantilal S. Sharma ....Applicant

Ms.Purnima G. Bhatia for the Applicant in support of the Chamber Summons.

Mr.A.R. Bapat for the Defendant.

CORAM : S.J. VAZIFDAR, J.
DATED : 19TH OCTOBER, 2004.

P.C. :

1. The Applicant claims to be a mortgagee of the property sought to be sold in execution. It is agreed between the parties that the sale in pursuance to the execution may proceed, the same however shall be without prejudice to the rights and contentions of the Applicant regarding his claim for priority in respect

of the sale proceeds.

2. In the circumstances, the following order is passed :-

i). The sale of the flat in execution shall proceed.

ii). The sale proceeds shall be deposited in Court. The Plaintiff shall not be entitled to withdraw the sale proceeds without notice of any such application to the Applicant.

iii). The question of the Applicant’s entitlement to sale proceeds based on the mortgage or otherwise shall be decided in appropriate proceedings to which either party shall give notice to other.

3. The Chamber Summons is accordingly disposed of.

4. Liberty to apply.

. Parties to act on an ordinary copy of this order duly authenticated by the Chamber

Registrar/Court Stenographer of this Court.